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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,454

03/26/2004

James Kevin Hurson

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7662

22428

7590

01/26/2006

FOLEY AND LARDNER LLP  
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WASHINGTON, DC 20007

EXAMINER

NOLAND, THOMAS

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/809,454

Applicant(s)

HURSON, JAMES KEVIN

Examiner

Thomas P. Noland

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-16 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) 7,10-12,15,16 and 23-25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The amendment filed Nov. 9, 2005 has been entered.
2. Claims 23-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 18, 2004.
3. Claims 7, 10-12, 15-16 and 25 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 14, 2005.
4. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Strong US 4,662,211 or Reichert DD 153230), both cited by applicant in view of Hudson US 2,766,056.

Strong shows a road surface friction monitor with a test wheel as shown in its abstract and Fig. 1 that appears to work by applying torque/acceleration to the test wheel and monitoring its effects. Reichert discloses a similar such monitor as evident from its Derwent abstract. Since both appear to place the wheel on the road that is then pulled it would appear to inherently be placed to rotate freely as the vehicle pulls it along even if they actually drive the wheel. Neither appears to specifically disclose detecting a first instance of slip but such is a known expedient in similar friction monitors as evidenced by Hudson in col. 1, lines 56-60 and thus such would have been obvious to

have been monitored in Strong or Reichert to help prevent or control the effect of slippage or to ease calculation of frictional coefficient. Although Hudson et al does refer to adhesion as well as slip it appears that adhesion as used therein means not slipping so its teaching appears relevant.

5. Claims 13-14 are allowed.

6. Applicant's arguments filed Nov. 9, 2005 have been fully considered but they are not persuasive. Re the rotating freely argument is noted also that Applicant claims in step (b) of claims 8 and 9 applying either a force or a torque to the test wheel so it could be argued that free rotation is not necessarily required to occur.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. This application contains claims 23-24 drawn to inventions nonelected with traverse in Paper No. 10182004. A complete reply to the final rejection must include

cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

9. This application contains claims 7, 10-12, 15-16 and 25 drawn to species nonelected with traverse in Paper No. 02142005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2800 Customer Service at (571) 272-2815.

**Thomas P. Noland**  
**Primary Examiner**  
**Art Unit 2856**

Jan. 20, 2006

